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August 12, 2021

VIA ELECTRONIC FILING

Hon. William J. Martini, U.S.D.J.
Hon. Mark Falk, Chief U.S.M.J.
United States District Court, District of New Jersey
Martin Luther King Bldg. & U.S. Courthouse
50 Walnut Street, Rm. 4015
Newark, NJ 07101

**Re: Elizabeth McNair, Administrator Ad Prosequendum of the Estate of Darrell Smith, and Elizabeth McNair, individually v. State of New Jersey, et al
Civil Action No. 2:21-cv-01291 (WJM)(MF)**

Dear Judge Martini and Judge Falk:

Our office represents Defendant Jagdat Persad in the above-captioned matter and entered our appearance on Monday August 9, 2021. As you are aware, Defendants Adult Diagnostic & Treatment Center, Department of Corrections, Marcus O Hicks, New Jersey Department of Health, and the State of New Jersey ("State Defendants") filed a motion to strike Paragraphs 182-205 from Plaintiff's Amended Complaint pursuant to *Fed. R. Civ. P.* 12(f)(2).

Defendant Persad joins the State Defendants' motion and respectfully requests that it be granted. Additionally, because the outcome of such motion may affect any response that Defendant Persad may file, Defendant Persad respectfully requests the time for Defendant Persad to Answer or otherwise move in response to Plaintiff's Amended Complaint be tolled until fourteen (14) days after the Court decides the State Defendants' motion to strike. The current time for Defendant to Answer or otherwise move is **today, August 12, 2021.**

Defendant believes that this temporary extension is appropriate for at least three reasons. First, it is consistent with Fed. R. Civ. P. 12, and is a natural extension to the local rule. *See* Fed. R. Civ. P. 12 (providing that "serving a motion under this rule alters" the period to respond "if the court denies the motion or postpones its disposition until trial, the responsive pleading must be served within 14 days after notice of the court's action"); *see also* L. Civ. R. 12.2. Second, it serves judicial economy, as it avoids the possibility that any of the named defendants be required to serve multiple responses to the Complaint if the motion to strike is granted. Finally, Plaintiff will not be prejudiced by this delay as no party has otherwise filed a response.

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This office has reached out to Plaintiff's counsel via telephone and email but has not yet heard back to see if Plaintiff consents.

We thank Your Honors' for your attention to this important matter. A proposed form of Order is enclosed.

Respectfully,

ARCHER & GREINER
A Professional Corporation

By: Daniel J. DeFiglio

Daniel J. DeFiglio

DJD:amh

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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

ELIZABETH McNAIR, Administrator *Ad
Prosequendum* of the ESTATE OF
DARRELL SMITH, and
ELIZABETH McNAIR, Individually,

Plaintiff,

v.

STATE OF NEW JERSEY;
DEPARTMENT OF CORRECTIONS,
SPECIAL TREATMENT UNIT;
ADULT DIAGNOSTIC & TREATMENT
CENTER; COMMISSIONER MARCUS O.
HICKS, in his official and
individual capacity; RAYMOND ROYCE,
in his official and individual capacity;
NEW JERSEY DEPARTMENT OF HEALTH;
RUTGERS, THE STATE UNIVERSITY OF
NEW JERSEY, d/b/a RUTGERS
BIOMEDICAL & HEALTH
SCIENCES; UNIVERSITY CORRECTIONAL
HEALTH CARE; CHARICE POWELL, in her
official and individual capacity,
GIUSEPPE MANDARA, in his official
and individual capacity; HENRY
ACEBO, in his official and
individual capacity; OFFICER JAGDAT
PERSAD, in his official and
individual capacity; OFFICER
MARZETTIE SHAMBERGER, in his
official and individual capacity,
SGT. FREDDIE RODRIGUEZ, in his
official and individual capacity;
OFFICER JOSE VALENTIN, in his
official and individual capacity;
OFFICER DAMION GILBERT, in his
official and individual capacity;
OFFICER RONY APONTE, in his
official and individual capacity;
OFFICER TIMOTHY FOSTER, in his
official and individual capacity; OFFICER
BENNY PEREZ, in his official and individual

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capacity; SGT. TIMMIE ORANGE, in his official and individual capacity;
 SGT. PHILIP RILEY, in his official and individual capacity; LT. ANTONIO COSTEIRO, in his official and individual capacity; LT. FRANCISCO ESTRADA, in his official and individual capacity;
 ARTHUR BREWER, M.D., CCHO, in his official and individual capacity;
 FRANK A. GHINASSI, PHD, in his official and individual capacity; JULIE WHITE, MSW, CCHP, in her official and individual capacity;
 IHUOMA NWACHUKWU, M.D., in her official and individual capacity;
 BHARATKUMAR R. PATEL, M.D., in his official and individual capacity;
 BENEDICTA KONAMAH, RN, in her official and individual capacity; BALMATEE NAIDOO, R.N., in her official and individual capacity; YVONNE P. PADEN, R.N., in her official and individual capacity;
 MARIE COLTILDE FLEURANTIN R.N., in her official and individual capacity;
 DELORES GUIDA, R.N., in her official and individual capacity; JOHN DOES 1-20, JANE ROES 1-20, in their official and individual capacity, and ABC COMPANY/ CORPORATION, 1-10) (fictitious names),

Defendants

CIVIL ACTION

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ORDER

ARCHER & GREINER, P.C.
 One Centennial Square
 Haddonfield, NJ 08033-0968
Attorneys for Defendant,
Officer Jagdat Persad

By: JOHN C. CONNELL, ESQ. (Att. ID # 028631986)
 DANIEL J. DeFIGLIO, ESQ. (Att. ID# 117842014)

This matter having come before the Court by way of letter of Defendant Officer Jagdat Persad; and the Court having considered the papers submitted herein, and for good cause shown;

It is on this _____ day of _____, 2021;

ORDERED that the time within which Defendant Jagdat Persad may Answer or otherwise move in response to Plaintiff's First Amended Complaint is hereby extended until fourteen (14) days after receipt of the Court's decision on the Defendants Adult Diagnostic & Treatment Center, Department of Corrections, Marcus O Hicks, New Jersey Department of Health, and the State of New Jersey ("State Defendants") motion to strike Paragraphs 182-205 from Plaintiff's Amended Complaint pursuant to *Fed. R. Civ. P.* 12(f)(2).

BY THE COURT:

HON. _____, U.S.D.J.

___ Opposed

___ Unopposed